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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,475	06/28/2007	Atsushi Mae	09812.0139	9711

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EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	PAPER NUMBER
2481	

MAIL DATE	DELIVERY MODE
11/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/590,475	MAE ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 6-8* is/are rejected.

7)☒ Claim(s) *2-5 and 9-12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/03/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 7-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7-8 direct to a program without specifying that the program is encoded or recorded on a non transitory computer readable medium and is read out and executed from and by a computer to perform the methods of claims 7 and 8, the program can be considered as data or signal .See MPEP 2100.

Applicant argues that " Claim 7 recites "a recording medium," which Applicants submit cannot be interpreted as a signal. A signal may transmit data, and may be readable by a computer, but a signal is not a recording medium, because a signal does not record anything.". In response, it is submitted that applicant argument does not reflect the claim or the original specification since nowhere in claim recites that the medium can record signal or program by itself. The recited medium can be considered as a carrier wave signal that carries the program .

The computer readable storage device in claim 8 can be considered as the recording medium of claim 7 since both of them having a program.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okabayashi et al (6,751,399) in view of Kotani (7,352,955).

Regarding claims 1 ,6 and 7-8, Okabayashi discloses a recording apparatus and a method (Figs 1, 3, column 3, lines 45-60, column 5, lines 20-50) comprising:

read-out control means for controlling reading of attribute data indicating an attribute of data recorded on a data recording medium from the data recording medium (column 6, lines 30-40); and

determination means for determining whether the data recorded on the data recording medium is display data for displaying one static image for a predetermined period of

time or display data for displaying a plurality of static images in a predetermined order one by one at a predetermined interval based on the read-out attribute data (column 3, lines 45-60, column 6, lines 5-60).

Okabayashi fails to teach deleting the attribute data . Kotani teaches an apparatus for recording images having a deleting means for deleting the attribute data for images (Fig. 10) . It would have been obvious to one of ordinary skill in the art to modify Okabayashi with Kotani by providing a deleting means as taught by Kotani with the apparatus of Okabayashi thereby enhancing the function of Okabayashi to delete non used attribute data .

Applicant argues that the combination of Okabayashi and Kotani does not teach determination of the display data and to erase the display data . In response, the examiner disagrees. It is noted that Okabayashi teaches attribute data including display data (column 3, lines 45-60, column 6, lines 5-60) and Kotani teaches deletion of the attribute by appending to the attribute data a deletion attribute to determine that a data file can not be played or reproduced (Fig. 10). One of ordinary skill in the art would use the teaching of Kotani to provide the display data of Okabayashi with a deletion attribute to determine that the display data is deleted. Further it is noted that the claims do not specify how the display data on the medium is determined and erased to distinguish the combination of Okabayashi and Kotani.

Allowable Subject Matter

5. Claims 2-5 and 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter-Anthony Pappas can be reached on (571) 272-7646. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/
Primary Examiner, Art Unit 2481